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In re application of: Kimura et al.
Serial Number: 09/530,196
Filed: August 22, 2000
For: METALLIC PLATE OR RESIN
STRUCTURE HAVING
PHOTOCATALYST-SUPPORTING
FILM LAMINATED THERETO

DECISION
ON PETITION

This is a decision on the PETITION TO RESET A PERIOD FOR REPLY DUE TO LATE RECEIPT OF AN OFFICE ACTION, filed September 30, 2002. The petition requests that the period for reply to the Office action dated March 22, 2002 be restarted and a retroactive rescinding of any prospective Notice of Abandonment. A Notice of Abandonment was mailed out October 02, 2002.

DECISION

Since the petitioner asserts that the applicant did not receive the Office letter mailed March 22, 2002, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee) and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.02 - NEW PROCEDURE TMOG 1170 O.G. 114).

As set forth in MPEP § 711.03(c) II - PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION:

"The showing required to establish the nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement."

The evidence presented is insufficient, under MPEP 711.03(c)(II) to establish that the Office letter mailed on March 22, 2002 was not received at the applicant's correspondence address. The evidence provided includes a statement by the petitioner that the Office letter mailed on March 22, 2002 was not received by the applicant, but the instant petition does not contain a statement attesting that a search of the docket records or equivalent documents were made and the results of such a search revealed that the Office letter mailed on March 22, 2002 was not received and it fails to contain a copy of the docket record or any equivalent documents where the nonreceived Office communication would have been entered had it been received.

The petition is **DENIED**.

J. Stone

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